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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SHOSH YONAY and YUVAL YONAY,
12 Plaintiffs,
13
14 v.
15 PARAMOUNT PICTURES
CORPORATION, a Delaware corporation,
16 and DOES 1-10,
17 Defendants.

Case No. 2:22-CV-3846-PA

**[PROPOSED] ORDER
GRANTING DEFENDANT
PARAMOUNT PICTURES
CORPORATION'S REQUEST
FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION TO
DISMISS PLAINTIFFS' FIRST
AMENDED COMPLAINT**

Hearing Date: November 7, 2022
Hearing Time: 1:30 PM
Place: Courtroom 9A
Judge: Hon. Percy Anderson

[Proposed] Order

Pending before the Court is Paramount Picture Corporation (“PPC”)’s Request for Judicial Notice in Support of Motion to Dismiss Plaintiffs’ First Amended Complaint (“Request”). The Court will grant the Request.

Rule 201 of the Federal Rules of Evidence provides that a court “must take judicial notice if a party requests it and the court is supplied with the necessary information” of an adjudicative fact, where the fact is “not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2), (c)(2). In ruling on a motion to dismiss for failure to state a claim, the Court may consider “documents attached to the complaint, documents incorporated by reference in the complaint, or matters of judicial notice . . . without converting the motion to dismiss into a motion for summary judgment.” *United States v. Ritchie*, 342 F.3d 903, 907–08 (9th Cir. 2003).

Exhibits A and B to the McNally Declaration are copies of Ehud Yonay’s 1983 article entitled “Top Guns” (the “Article”) and the 2022 film *Top Gun: Maverick* (“*Maverick*”), respectively. Because the Amended Complaint alleges that *Maverick* infringes Plaintiffs’ copyright in the Article, and discusses the purported similarities between the works, both works are subject to judicial notice and are otherwise incorporated by reference into the Amended Complaint. *See Silas v. HBO*, 201 F. Supp. 3d 1158, 1168 (C.D. Cal. 2016), *aff’d* 713 F. App’x 626, 627 (9th Cir. 2018).

Exhibit C to the McNally Declaration is a true and correct copy of the cover page from Ehud Yonay’s 1993 book *No Margin for Error: The Making of the Israeli Air Force*. The Court may take judicial notice of the fact of the publication of this book because it is a fact that “can be accurately and readily determined from

sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2).

Exhibit D to the McNally Declaration is a true and correct copy of an April 29, 1983 contract between Ehud Yonay and California Magazine, Inc. (the “*California Magazine Contract*”). Because Plaintiffs’ First Amended Complaint depends on the contents of the *California Magazine Contract*, see Am. Compl. ¶¶ 21–29, 68, the Court may consider the Contract when adjudicating PPC’s Motion to Dismiss. See *Zella v. E.W. Scripps Co.*, 529 F. Supp. 2d 1124, 1131 (C.D. Cal. 2007) (quoting *Knieval v. ESPN*, 393 F.3d 1068, 1076 (9th Cir. 2005)).

Finally, Exhibit E to the McNally Declaration is a true and correct copy of a United States Senate report of a 1975 hearing before the Committee on Armed Services (“Senate Report”). Because courts routinely take judicial notice of governmental documents under Rule 201(b)(2), the court will do the same with respect to the facts contained in the Senate Report. See, e.g., *Ning Xianhua v. Oath Holdings, Inc.*, 536 F. Supp. 3d 535, 546 (N.D. Cal. 2021) (taking judicial notice of a Senate report); *Lopez v. Bank of Am., N.A.*, 505 F. Supp. 3d 961, 969–71 (N.D. Cal. 2020) (courts may generally take judicial notice of transcripts of congressional hearings).

Accordingly, the Court hereby **ORDERS** that the Request is **GRANTED**. Judicial notice shall be taken of Exhibits A-E of the Declaration of Patrick S. McNally.

IT IS SO ORDERED.

Dated: _____

The Honorable Percy Anderson
Judge, United States District Court
for the Central District of California